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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

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THE PEOPLE,

Plaintiff and Respondent,

v.

CALVIN LEE HOLLY,

Defendant and Appellant.

C060473

(Super. Ct. No. CM029058)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On July 19, 2008, defendant Calvin Lee Holly shoplifted several suits from a J.C. Penney department store in Chico. Defendant later told the probation officer that he stole to support his drug habit.

Defendant entered a negotiated plea of no contest to second degree burglary. (Pen. Code, § 459.) In exchange for his plea,

two prior prison term enhancements were dismissed with a *Harvey* waiver.<sup>1</sup> (Pen. Code, § 667.5, subd. (b).) After finding defendant ineligible for drug court, the trial court sentenced defendant to the upper term of three years in prison. The court also imposed a \$200 restitution fine, an additional \$200 restitution fine, stayed unless parole was revoked, and a \$20 court security fee, and a \$10 theft fine plus corresponding fees and assessments. Defendant was awarded 102 days of credit for time served.

Defendant appeals. He did not obtain a certificate of probable cause. (Pen. Code, § 1237.5.)

Counsel filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

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<sup>1</sup> *People v. Harvey* (1979) 25 Cal.3d 754.

DISPOSITION

The judgment is affirmed.

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SIMS, Acting P. J.

We concur:

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NICHOLSON, J.

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CANTIL-SAKAUYE, J.